

## **AMENDMENT TO CROWDSPRING's TERMS OF SERVICE APPLICABLE TO GOVERNMENTAL USERS/MEMBERS**

This Amendment, agreed to by both parties, applies to the following governmental agency/department ("Agency", "User", or "You"): U.S. Department of the Interior.

You, as a United States Government entity, are required, when entering into agreements with other parties, to follow applicable federal laws and regulations, including those related to ethics; privacy and security; accessibility; limitations on indemnification; fiscal law constraints; advertising and endorsements; freedom of information; and governing law and dispute resolution forum. CrowdSPRING, LLC ("Company" or "We") and You (together, the "Parties") agree that modifications to the crowdSPRING's standard Terms of Service, available at <http://www.crowdspring.com/user-agreement/> (the "TOS") are appropriate to accommodate Your legal status, Your public (in contrast to private) mission, and other special circumstances. Accordingly, the TOS are hereby modified by this Amendment as they pertain to Agency's use of the Company web site and services.

A. Government entity: "You" within the TOS shall mean the Agency itself and shall not apply to, or bind (i) the individual(s) who utilize the Company site or services on Agency's behalf, or (ii) any individual users who happen to be employed by, or otherwise associated with, the Agency.

B. Public purpose: Any requirement(s) set forth within the TOS that use of the Company site and services be only for private, personal and/or non-commercial purposes is hereby waived.

C. Agency content serving the public: Company hereby approves Agency's distribution or other publication via the Website of materials which may contain or constitute promotions, advertisements or solicitations for goods or services, so long as the material relates to the Agency's mission and are posted to, and needed for, the Agency's specific project on crowdSPRING.

D. Advertisements: Company hereby agrees not to serve or display any third party commercial advertisements or solicitations on any pages within the Company site displaying content created by or under the control of the Agency. This exclusion shall not extend to house ads, which Company may serve on such pages in a non-intrusive manner.

E. Indemnification: All indemnification and damages provisions of the TOS are hereby waived. Liability of Agency for any breach of the TOS or this Agreement, or any claim arising from the TOS or this Agreement, shall be determined under the Federal Tort Claims Act, or other governing authority. Liability of Company for any breach of the TOS or this Agreement, or any claim arising from the TOS or this Agreement, shall be determined by applicable federal law.

F. Governing law: The dispute resolution provision in the TOS (section 11) is hereby deleted. The TOS and this Amendment shall be governed, interpreted and enforced in accordance with the federal laws of the United State of America.

G. Changes to standard TOS: Language in the standard TOS reserving to Company the right to change the TOS without notice at any time is hereby amended to grant You at least three days advance notice of any material change to the TOS to the extent such change impacts You. Company shall send this notice to the email address You designate at the time You sign up for service, and You shall notify Company of any change in the notification email address during the life of the Amendment.

H. Access and use: Company acknowledges that the Agency's use of Company's site and services may energize significant citizen engagement. Language in the TOS allowing Company to terminate service, stop any project or transaction, prevent or restrict access to the Site or to our services, or take any other action in case of technical problems, objectionable material, inaccurate project listings, inappropriately categorized projects, inaccuracies, unlawful projects or content, procedures or actions otherwise prohibited by our policies and rules, or close the Agency's account, at any time, for any reason, is

modified to reflect the Parties' agreement that Company may unilaterally terminate service and/or terminate Agency's account only for breach of Agency's obligations under the TOS or its material failure to comply with the instructions and guidelines posted on the Site, or if Company ceases to operate its site or services generally. Company will provide Agency with a reasonable opportunity to cure any breach or failure on Agency's part.

I. Limitation of liability: The Parties agree that nothing in the Limitation of Liability clause or elsewhere in the TOS in any way grants Company a waiver from, release of, or limitation of liability pertaining to, any past, current or future violation of federal law.

J. Uploading, deleting: The Parties understand and agree that You are not obligated to place any User Content ("User Content"), which is that content that YOU have created and intend to post on the Company site, on the Company site, and You reserve the right to remove any and all User Content at Your sole discretion, except that you may not remove the creative briefs ("Creative Briefs"), which are descriptions of the design requirements and/or product descriptions, that You post when you initiate a project, or the updates to those Creative Briefs.

K. No endorsement: Company agrees that Your seals, trademarks, logos, service marks, trade names, and the fact that You have a presence on the Company site and use its services, shall not be used by Company in such a manner as to state or imply that Company's products or services are endorsed, sponsored or recommended by You or by any other element of the Federal Government, or are considered by these entities to be superior to any other products or services. Except for pages whose design and content is under the control of the Agency, or for links to or promotion of such pages, Company agrees not to display any Agency or government seals or logos on the Company's homepage or elsewhere on the Company Site, unless permission to do has been granted by the Agency or by other relevant federal government authority. Company may list the Agency's name in a publicly available customer list so long as the name is not displayed in a more prominent fashion than that of any other third party name.

L. No business relationship created: The Parties are independent entities and nothing in this Amendment or TOS creates an agency, partnership, joint venture, or employer/employee relationship.

M. No cost agreement: Nothing in this Amendment or TOS obligates You to expend appropriations or incur financial obligations. The Parties acknowledge and agree that none of the obligations arising from this Amendment or TOS are contingent upon the payment of fees by one party to the other.

O. Separate future action for fee based services: . The Parties understand that fee based services are categorically different than free products, and are subject to federal procurement rules and processes. Before an Agency decides to enter into a premium or enterprise subscription, or any other fee-based service that this Company or alternative providers may offer now or in the future, You agree to determine your Agency has a need for those additional services for a fee, to consider the subscription's value in comparison with comparable services available elsewhere, to determine that Agency funds are available for payment, to properly use the Government Purchase Card if that Card is used as the payment method, to review any then- applicable TOS for conformance to federal procurement law, and in all other respects to follow applicable federal acquisition laws, regulations, and agency guidelines when initiating that separate action.

P. Assignment: Neither party may assign its obligations under this Amendment or TOS to any third party without prior written consent of the other, except that no prior written consent shall be required in connection with any merger, consolidation, reorganization, sale of all or substantially all of Company's assets or any similar transaction.

Q. Precedence; Further Amendment; Termination: This Amendment constitutes an amendment to the TOS; language in the TOS indicating it alone is the entire agreement between the Parties is waived. If there is any conflict between this Amendment and the TOS, or between this Amendment and other rules

or policies on the Company site or services, this Amendment shall prevail. This Amendment may be further amended only upon written agreement executed by both Parties. Agency may close Agency's account and terminate this agreement at any time. Company may close Agency's account and terminate this agreement on 30 days written notice.

R. Posting and availability of this Amendment: The provision of the TOS requiring modifications to the TOS to be posted on Company's website is inapplicable since this Amendment is of limited, not general, application, and is otherwise waived for this special circumstance. The Parties agree this Amendment contains no confidential or proprietary information, and You may release it to the public upon request and to other agencies interested in using Company Site and services.

S. Security: Company will, in good faith, exercise due diligence using generally accepted commercial business practices for IT security, to ensure that systems are operated and maintained in a secure manner, and that management, operational and technical controls will be employed to ensure security of systems and data. Recognizing the changing nature of the Web, Company will continuously work with users to ensure that its products and services meet users' requirements for the security of systems and data.

T. Legal Relationships: Section 4. (b) is amended as follows:

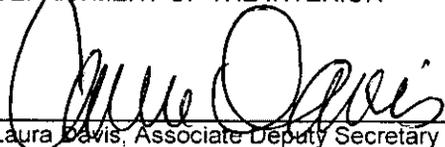
**(b) Contracts Between Buyers and Creatives.** By registering as a member, you acknowledge and agree that you contract directly with other members to buy or sell services. When a buyer posts a project, the buyer can select whether to use their own contract, no contract, or a crowdSPRING contract to complete a transaction with a creative ("Buyer Contract"). Creatives can preview the terms in the buyer's contract prior to making entries to a project. Creatives are not required to participate in the project posted by the buyer. By submitting items to a project, creatives agree that if their entry is selected, they will be entering into a binding agreement with that buyer, pursuant to the terms of the buyer's contract.

When a buyer selects a winning creative, the buyer agrees to purchase, and the creative agrees to deliver, the creative's services in accordance with the terms of the Buyer Contract and this Agreement. The buyer agrees to select the winning design/creative within thirty (30) days after the project ends. The buyer further agrees that it would be unfair if no creative received the award(s) offered by the buyer due to the buyer abandoning the project. Therefore, if the buyer does not select the winning design/creative(s) within seven days after their project ends, the buyer agrees that crowdSPRING may select the winning design/creative(s) and pay the award(s) on behalf of the buyer. Additionally, you agree that when you are a buyer in a project, you will complete wrap-up in your project within thirty (30) days after your project ends. You authorize us to release escrowed funds to pay the winning creative(s) if more than thirty (30) days have passed since your project ended (the winning creative will still be required to complete project wrap-up and to deliver the final files to you under their agreement with you). You agree not to enter into any contractual provisions in conflict with this Agreement. You further agree that any provision in a Buyer Contract that conflicts with this Agreement is void.

You covenant and agree to act in good faith and engage in fair dealing in connection with the Buyer Contract. Additionally, you acknowledge and agree that the value, reputation, and goodwill of crowdSPRING depends in part on your performance of your covenants and agreements. You further agree that we have the right to take such actions, including without limitation suspension, termination, or legal actions, as we in our sole discretion deem necessary to protect the value, reputation, and goodwill of crowdSPRING.

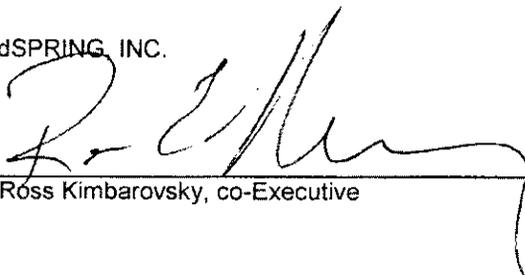
U.S. DEPARTMENT OF THE INTERIOR

By:

  
Laura Davis, Associate Deputy Secretary

crowdSPRING, INC.

By:

  
Ross Kimbarovsky, co-Executive

11/3/10

**Department of the Interior  
Privacy Impact Assessment**

September 2010

**Name of Project: Crowdsourced Creativity**

**Bureau: Department of the Interior**

**Project's Unique ID (Exhibit 300):**

Once the PIA is completed and the signature approval page is signed, please provide copies of the PIA to the following:

- Bureau/office IT Security Manager
- Bureau/office Privacy Act Officer
- DOI OCIO IT Portfolio Division
- DOI Privacy Act Officer

**Do not email the approved PIA directly to the Office of Management and Budget email address identified on the Exhibit 300 form. One transmission will be sent by the OCIO Portfolio Management Division.**

**Also refer to the signature approval page at the end of this document.**

**A. CONTACT INFORMATION:**

- 1) Who is the person completing this document? (Name, title, organization, and contact information)**

Larry Gillick  
Deputy Director of New Media  
Office of Communication  
[Larry\\_Gillick@ios.doi.gov](mailto:Larry_Gillick@ios.doi.gov)  
202-208-5141

- 2) Who is the system owner? (Name, title, organization, and contact information)**

Andrew Jackson  
Deputy Assistant Secretary for Policy, Management and Budget  
[Andrew\\_Jackson@ios.doi.gov](mailto:Andrew_Jackson@ios.doi.gov)  
202-208-7966

- 3) Who is the system manager for this system or application? (Name, organization, and contact information)**

Andrew Jackson  
Deputy Assistant Secretary for Policy, Management and Budget  
[Andrew\\_Jackson@ios.doi.gov](mailto:Andrew_Jackson@ios.doi.gov)  
202-208-7966

- 4) Who is the Bureau IT Security Manager (or Chief Information Security Officer) who reviewed this document? (Name, organization, and contact information)**

Maria Clark  
OS Information Security Officer

7301 W. Mansfield Ave., D-2100  
Denver, CO  
Phone: 303-969-5154  
Email: Maria\_E\_Clark@nbc.gov

- 5) **Who is the Bureau/Office Privacy Act Officer who reviewed this document?** (Name, organization, and contact information)

Rachel Drucker  
OS Privacy Officer  
1951 Constitution Ave., NW, Mailstop 116-SIB  
Washington, DC 20240  
Phone: 202-208-3568  
Email: Rachel\_Drucker@nbc.gov

- 6) **Who is the Reviewing Official?** (According to OMB, this is the agency CIO or other agency head designee, who is other than the official procuring the system or the official who conducts the PIA)

Laura Davis  
Associate Deputy Secretary, Department of the Interior  
1849 C Street, NW  
Washington, DC 20240  
Phone: 202-208-6291  
Email: Laura\_Davis@ios.doi.gov

**B. SYSTEM APPLICATION/GENERAL INFORMATION:**

- 1) **Does this system contain any information about individuals** *{this question is applicable to the system and any minor applications covered under this system}?*

The Crowdsourcing system will collect registration information from the public, including username, email, and password. This is all the information collected from an individual unless they win the contest. Individuals may provide additional information such as a webpage, country, and time zone. This information, along with email address will not be shared with DOI.

DOI will also accept submission of entries from the public via email. These entries will contain a personal email at a minimum, they may also contain a name. Notice will be provided on the DOI site notifying individuals who wish to submit an entry to not include any personally identifiable information.

Once a winner is selected, the following additional information will be collected to award the prize: name, email address, physical address, and payment information.

- a. **Is this information identifiable to the individual**<sup>1</sup>*{this question is applicable to the system and any minor applications covered under this system}?* (If there is NO information collected,

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<sup>1</sup> "Identifiable Form" - According to the OMB Memo M-03-22, this means information in an IT system or online collection: (i) that directly identifies an individual (e.g., name, address, social security number or other identifying number or code, telephone number, email address, etc.) or (ii) by which an agency intends to identify specific individuals in conjunction with other data elements, i.e., indirect identification. (These data elements may include a combination of gender, race, birth date, geographic indicator, and other descriptors).

maintained, or used that is identifiable to the individual in the system, Sections D through G can be marked not applicable. If YES complete all sections for system and any applicable minor applications).

The name, username and email are identifiable to an individual.

The information collected to award the prize is also identifiable to an individual.

- b. Is the information about individual members of the public** *{this question is applicable to the system and any minor applications covered under this system}*? (If YES, a PIA must be submitted with the OMB Exhibit 300, and with the IT Security C&A documentation).

The information in Crowdsourcing, and the information collected by DOI via email, is about members of the public.

- c. Is the information about employees** *{this question is applicable to the system and any minor applications covered under this system}*? (If yes and there is no information about members of the public, the PIA is required for the DOI IT Security C&A process, but is not required to be submitted with the OMB Exhibit 300 documentation).

The information collected may come from employees. The contest is open to the public, and does not delineate the submitter's employer.

**2) What is the purpose of the system/application?**

Crowdsourced creativity systems provide a platform and user base for the public to submit design ideas. Crowdsourcing will provide DOI with the opportunity to reach the design community and the general public for their input.

DOI will host a webpage containing the same information, with an email for the public to use to submit if they do not wish to join Crowdsourcing. DOI will anonymously submit the emailed entries to Crowdsourcing so their entries will receive the same consideration as the other submitted entries.

**2a) List all minor applications that are hosted on this system and covered under this privacy impact assessment:**

MINOR APPLICATION NAME	PURPOSE	PII? (Yes/No; If Yes, Describe)
n/a		

**3) What legal authority authorizes the purchase or development of this system/application?**

31 U.S.C. 1451. The Presidential Memorandum on Transparency and Open Government, dated January 21, 2009. OMB Memorandum 10-06, Open Government Directive.

**C. NEW MEDIA USE:**

**1) Will any PII become available to DOI through public use of the third-party website or application?**

DOI will only receive PII for the winning entry. All other PII submitted through the third-party website will not be transferred to DOI. The PII on the third-party website is not collected on behalf of DOI, rather for users to submit entries hosted on their website.

**a. What is DOI's intended or expected use of PII?**

DOI will use the PII to contact and pay the individual who submitted the winning design.

**b. With whom the agency will share PII?**

The IRS and other entities necessary for the proper contracting and paying of the winner.

**c. Will DOI maintain PII? What PII? For how long?**

DOI will maintain the winner's PII in keeping with normal records management practices for contracting and payment of services rendered. In accordance with 1110.1, the data will be deleted after three years after the fiscal year when the payment is made.

**d. How the DOI will secure PII that it uses or maintains?**

DOI will secure the winner's PII in keeping with normal security practices for sensitive data.

**2) What other privacy risks exist and how DOI will mitigate those risks? (Does the use of the third party website as opposed to traditional methods increase the privacy risks?)**

DOI may receive additional information from the email submissions. To mitigate this, DOI will post specific instructions telling the public not to submit any PII other than email address.

**3) Will these activities will create or modify a "system of records" under the Privacy Act? Provide number and name.**

DOI is creating a new system of records to cover social media uses, such as this.

**D. DATA IN THE SYSTEM:**

**1) What categories of individuals are covered in the system?**

Individuals who have chosen to join the Crowdsourced community. DOI will also maintain a system of individuals who did not wish to submit their entries via Crowdsourced. DOI's system will only contain email addresses.

**2) What are the sources of the information in the system?**

Information is provided by individuals who choose to join the social media websites or submit entries.

**a. Is the source of the information from the individual or is it taken from another source? If not directly from the individual, then what other source?**

Information is collected directly from the individual.

**b. What Federal agencies are providing data for use in the system?**

The U.S. Department of the Interior will provide specifications for creative projects.

**c. What Tribal, State and local agencies are providing data for use in the system?**

None.

**d. From what other third party sources will data be collected?**

None.

**e. What information will be collected from the employee and the public?**

Crowdsourcing will collect usernames and email. DOI will directly collect email addresses. The winner will also submit their name, payment information, and an address.

**3) Accuracy, Timeliness, and Reliability**

**a. How will data collected from sources other than DOI records be verified for accuracy?**

The data will not be verified.

**b. How will data be checked for completeness?**

The data will not be checked for completeness.

**c. Is the data current? What steps or procedures are taken to ensure the data is current and not out-of-date? Name the document (e.g., data models).**

Not applicable

**d. Are the data elements described in detail and documented? If yes, what is the name of the document?**

The data elements are described in detail in the privacy policy and terms of service for Crowdsourcing.

**E. ATTRIBUTES OF THE DATA:**

**1) Is the use of the data both relevant and necessary to the purpose for which the system is being designed?**

The systems do not collect any more data than is strictly necessary to contact the winner.

**2) Will the system derive new data or create previously unavailable data about an individual through aggregation from the information collected, and how will this be maintained and filed?**

No.

**3) Will the new data be placed in the individual's record?**

N/A

**4) Can the system make determinations about employees/public that would not be possible without the new data?**

No.

**5) How will the new data be verified for relevance and accuracy?**

N/A

- 6) **If the data is being consolidated, what controls are in place to protect the data from unauthorized access or use?**

DOI will not consolidate data.

- 7) **If processes are being consolidated, are the proper controls remaining in place to protect the data and prevent unauthorized access? Explain.**

Not applicable

- 8) **How will the data be retrieved? Does a personal identifier retrieve the data? If yes, explain and list the identifiers that will be used to retrieve information on the individual.**

The data will be retrieved by image. Once the winning image has been selected, the correlating email address will be used to contact the winner, and collect the payment information.

- 9) **What kinds of reports can be produced on individuals? What will be the use of these reports? Who will have access to them?**

DOI can produce only the reports normally available in the contracting with and payment of an individual for payment.

- 10) **What opportunities do individuals have to decline to provide information (i.e., where providing information is voluntary) or to consent to particular uses of the information (other than required or authorized uses), and how individuals can grant consent.)**

Individuals have the right to not use the Crowdsourcing website, and submit directly to DOI via email. If an individual does not wish to email or use the Crowdsourcing website, they cannot participate in the contest.

**F. MAINTENANCE AND ADMINISTRATIVE CONTROLS:**

- 1) **If the system is operated in more than one site, how will consistent use of the system and data be maintained in all sites?**

The Crowdsourcing system will be maintained by a third party vendor. DOI will maintain a system of the entries submitted by email.

- 2) **Is the system using technologies in ways that the DOI has not previously employed (e.g., monitoring software, Smart Cards, Caller-ID)?**

DOI is using the Crowdsourcing technology to request entries from the public. DOI has not used a third party website to collect this information before.

- 3) **How does the use of this technology affect public/employee privacy?**

It does not.

- 4) **Will this system provide the capability to identify, locate, and monitor individuals? If yes, explain.**

No.

**5) What kinds of information are collected as a function of the monitoring of individuals?**

N/A

**6) What controls will be used to prevent unauthorized monitoring?**

N/A

**G. ACCESS TO DATA:**

**1) Who will have access to the data in the system? (E.g., contractors, users, managers, system administrators, developers, tribes, other)**

DOI will access information on the winner, in order to contract with and provide payment.

The Crowdsourcing provider may access the data in the system to alert users about new projects, changes to the site, and to allow individuals to log changes online. Also, the provider may use information to analyze usage of the site, customize site content and layout, and improve product and service offerings.

The system maintained by DOI will only be accessed by the Office of Public Affairs.

**2) How is access to the data by a user determined? Are criteria, procedures, controls, and responsibilities regarding access documented?**

Individuals may not access data on other individuals. Individuals may access their own information via their online registration passwords.

Access to the system maintained by DOI is determined by the need to have access the information. An individual at the Office of Public Affairs will receive the entries by email, and load the entry, without any PII into Crowdsourcing. The information will not be accessed in any other manner unless the chosen design was submitted by email.

**3) Will users have access to all data on the system or will the user's access be restricted? Explain.**

Crowdsourcing users will have regular access to information about projects, not each other. Office of Public Affairs employees will have the level of access as the public.

**4) What controls are in place to prevent the misuse (e.g., unauthorized browsing) of data by those having access? (Please list processes and training materials)**

DOI will have no system-level access to information on the Crowdsourcing system.

**5) Are contractors involved with the design and development of the system and will they be involved with the maintenance of the system? If yes, were Privacy Act contract clauses inserted in their contracts and other regulatory measures addressed?**

The Crowdsourcing provider is an existing website acting as a service application. DOI is not hiring the provider to produce the system.

**6) Do other systems share data or have access to the data in the system? If yes, explain.**

No.

**7) Who will be responsible for protecting the privacy rights of the public and employees affected by the interface?**

The Crowdsourcing provider has responsibility for its customers' privacy rights. DOI will simply provide projects for individuals to compete with, then choose and properly deal with the winner.

**8) Will other agencies share data or have access to the data in this system (Federal, State, Local, Other (e.g., Tribal))?**

No, not the data in the Crowdsourcing system. The IRS will be notified, as is normal, of DOI's payment of the winner.

**9) How will the data be used by the other agency?**

The IRS will follow its usual tax-assessing and collecting practices.

**10) Who is responsible for assuring proper use of the data?**

The IRS is responsible for its own mission.

**See Attached Approval Page**

The Following Officials Have Approved this Document

1) System Manager

 (Signature) 11/04/10 (Date)

Name: Andrew Jackson

Title: Deputy Assistant Secretary for Policy, Management and Budget

2) NBC Information Security Officer

 (Signature) 10/28/10 (Date)

Name: Maria Clark

Title: OS Information Security Officer

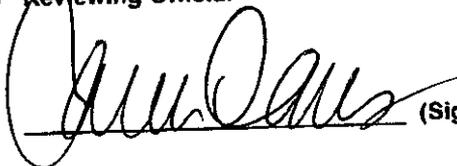
3) Privacy Act Officer

 (Signature) 10/22/10 (Date)

Name: Rachel Drucker

Title: OS Privacy Officer

4) Reviewing Official

 (Signature) 11-24-10 (Date)

Name: Laura Davis

Title: Associate Deputy Secretary, Department of the Interior